

REMARKS

The Office action dated September 19, 2008 has been received and its contents carefully noted. With this paper, all claims are unchanged and none are added.

Requirement for Election/Restrictions

The Office action requires restriction to one of the following inventions under 35 USC §121 and 372:

- Group I: Claims 1-9 and 14, drawn to a general chirp transmission system of a transceiver device, classified in class 375, subclass 139;
- Group II: Claims 10-13, drawn to a memory unit in the transceiver, classified in class 375, subclass 316;
- Group III: Claims 15-24, drawn to filter units in the transceiver, classified in class 709, subclass 203;
- Group IV: Claim 25-31, drawn to data sequences and frequency regulation in the transceiver, classified in class 375, subclass 316;
- Group V: Claims 32-43, drawn to a receiver in the transceiver, classified in class 375, subclass 139.

Applicant provisionally elects Group I, claims 1-9 and 4, for prosecution and respectfully traverses the restriction requirement.

Applicant respectfully traverses the restriction for the following reasons. Applicant respectfully asserts that the restriction requirement is not proper for at least the reason that the Office asserts there is not a single generic invention, but applicant respectfully submits that independent claim 1 provides a single generic invention, and all the dependent claims, including those directed to what the Office considers to be Groups II-V, call out further defined features of claim 1, i.e., embodiments of certain elements of the single generic invention of claim 1, as is typical of dependent claims.

In international (PCT) and European proceedings, restriction requirements are based on “non-unity ex posteriorem,” i.e., in view of a prior art document found by the Examiner that in the eyes of the Examiner renders the independent claim(s) unpatentable, and leaves different groups of embodiments, which may be considered as not linked by a single inventive concept. In US

proceedings, restriction requirements are typically based on non-overlap between the scopes of the independent product and process claims, such as the product-can-be-made-by-another-process type claims, and vice versa. However, applicant respectfully submits that the claimed invention does not fall into such a category because features of the dependent claims included in Groups II-V are called out in independent claim 1 and form part of the generic invention, therefore the restriction is traversed. For example, the Office asserts that Group II (claims 10-13) is directed to a memory unit in a transceiver, however, applicant respectfully submits that the memory unit is recited in independent claim 1 and is therefore part of the single generic invention.

The claimed elements of Groups II-V relate directly to the main transceiver claim of Group I in order to produce a chirp signal. The claims of Groups II-V are dependent claims which add features to the single generic invention of claim 1, but the features of the dependent claims are not distinct from the features of the independent claim from which they depend. For example, claim 10 recites chirp signals, as in claim 1, which have differing features or functionalities, and claims 15 and 16 recite chirp signals, as in claim 1, that are compressed or converted. Thus, applicant respectfully asserts that the claims of Group II rely upon the elements of the claims of Group I and add further features to the claims of Group I, therefore the claims in these groups are indistinct. The same is true for Groups II-V in relation to Group I.

Furthermore, PCT Rule 13.1 relating to unity of invention states that the “international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept” and PCT Rule 13.2 states “the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.”

Applicant respectfully asserts that the technical relationship involving the corresponding special technical features in the claimed invention is that every single claim in the application is related to a single general inventive concept in which a transceiver device produces a chirp signal. Some claims relate to features of the chirp signals that are stored in the memory unit (Group II), some of the claims relate to compression of the chirp signals at the receiver end (Group III), some of the claims relate to frequency regulation of the transmission of chirp pulses of the chirp signals (Group IV), and some of the claims relate to the receiving of the chirp signals by the receiver of the transceiver. Thus, it is clear that there is a single inventive concept connecting all the claims.

Moreover, PCT Rule 13.2 goes on to state that the “expression ‘special technical features’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” Thus, if, *in view of a prior art document*, the Office renders the independent claims unpatentable leaving different groups of embodiments that may not be considered to be linked by a single inventive concept, then the Office may issue a unity of invention rejection based on PCT Rule 13.2. The Office has not yet made any prior art rejections in this application, thus applicant respectfully submits that such a unity of invention restriction cannot properly be made based on PCT Rule 13.2.

In view of the foregoing, applicant respectfully requests that the Office reconsider and remove the restriction requirement because the claims in Groups I-V are not distinct from one another.

In conclusion, the applicant believes that the inventions of Group I, II, III, IV and V are indistinct from each other. Further, all claims in the application are intimately interrelated and they should be examined together.

CONCLUSION

Claims 1-43 are believed to be allowable. Allowance of all pending claims is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cathy A. Sturmer", followed by the date "12.20.08".

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